

Consideration for approval of a new non-rule policy governing prospecting to provide guidelines to prospectors, DNR employees, and riparian owners regarding the following:

- (1) locations where prospecting is less likely to impact endangered species, including mussels;
- (2) clarification of the permission required to conduct prospecting on navigable and non-navigable waterways, including those on DNR properties; and
- (3) proper disposal of contaminants that are found while prospecting.

“Prospecting” is defined in 312 IAC 6-2-6.8 as “activities conducted in preparation for or to remove hard mineral resources, including (1) gold, (2) platinum, (3) silver, (4) lead, (5) copper, (6) diamonds and other gemstones, and (7) other similar materials.” New rules in 312 IAC 6 and 312 IAC 10 governing prospecting took effect in December of last year. Several prospectors asked for additional guidance on obtaining permission from affected riparian owners along both navigable and non-navigable waterways, including on or along DNR properties.

This policy also includes bodies of water where endangered species, including endangered species of mussels, are likely to be found. These locations are included to help direct prospectors to waterways where prospecting would be less likely to result in the taking (including the collection) of an endangered species or mussel, which is prohibited in the rule.

Prospectors have also inquired about the proper disposal of metal contaminants (most notably, lead sinkers) found while prospecting, and information is included in this document to direct them to locations where lead and other contaminants can be properly disposed.

The DNR is requesting approval of this new non-rule policy document. The Advisory Council reviewed a prior draft of the document during its April meeting, and with amendments which have been incorporated in the attachment, also recommends approval.

Natural Resources Commission
Information Bulletin #62
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Subject: Prospecting in Indiana

1. Purpose

The Navigable Waterways Act (IC 14-29-1-8), Flood Control Act (IC 14-28-1-5) and rules adopted at 312 IAC 6 and 312 IAC 10 govern prospecting in waterways in Indiana.

“Prospecting” is defined in 312 IAC 6-2-6.8 as “activities conducted in preparation for or to remove hard mineral resources, including (1) gold, (2) platinum, (3) silver, (4) lead, (5) copper, (6) diamonds and other gemstones, and (7) other similar materials.” Rules adopted at 312 IAC 8 also govern activities on properties owned or controlled by the Department of Natural Resources (DNR) and require a permit for a person to conduct prospecting on a nonnavigable waterway within a DNR property. The DNR is the riparian owner for a navigable waterway which is adjacent to a DNR property and would be treated as any other riparian owner. This information bulletin provides guidance on locations where prospecting is less likely to impact endangered species and mussels, clarify the permission required to conduct prospecting on navigable and nonnavigable waterways, and provide information on the proper disposal of contaminants that are found while prospecting.

2. Definitions

The list of navigable waterways can be found on the Natural Resources Commission’s website at: <http://www.in.gov/nrc/2375.htm> or a written request can be sent to the DNR, Division of Fish and Wildlife Environmental Unit, 402 West Washington Street, Room W273, Indianapolis, IN 46204.

“Affected riparian owners” include property managers of properties owned by federal, state, or local government agencies and landowners that live along a waterway whose use or enjoyment of the waterway is affected by the presence of a prospector.

“DNR property” has the meaning set forth in 312 IAC 8.

3. DNR Properties

Written permission must be obtained from the property manager, or from the property manager’s designee, before prospecting in a non-navigable waterway or in a riparian zone of a navigable waterway that is located along a DNR property. On a DNR property, only panning would be authorized. To obtain written permission for prospecting on a DNR property, a departmental form must be completed and submitted to the property’s office. Organized events by private organizations may be subject to special event fees in accordance with 312 IAC 8-2-15. Using reasonable discretion, the property manager is authorized to issue, condition, deny, suspend or revoke an application for prospecting. In the exercise of discretion, the following and other pertinent factors and principles apply:

- (a) Proximity to sensitive archaeological, historical, or ecological resources. Examples include caves or areas that contain relevant rare, threatened, or endangered species such as fish and mussels.
- (b) A scheduled resource management activity, such as a prescribed burn.
- (c) Any other factor reasonably consistent with proper use and protection of the particular DNR property, including implementation of a master plan.

A person who is aggrieved by a determination by the property manager may seek informal review from the division director. A determination by the division director is subject to administrative review by the Natural Resources Commission under 312 IAC 3-1.

4. Affected Persons with Riparian Ownership

For purposes of a navigable waterway that is located along a DNR property, a person who wishes to conduct prospecting shall proceed as described in section 3 of this information bulletin. A person who wishes to conduct prospecting in a navigable waterway that is not located along a DNR property must obtain written permission from an affected riparian owner. The DNR shall consider a person is an affected riparian owner for the adjacent portion of a navigable waterway which is (a) the lesser of one-quarter (1/4) of the width of the waterway or fifty (50) feet into the waterway from the ordinary high watermark; or, (b) fifty feet (50) from any improvement of the riparian owner. Examples of an “improvement” include a diving platform, pier, or jetty. For a nonnavigable waterway, a riparian owner is an affected person for the entirety of the waterway. Nothing in this information bulletin limits the rights of an affected riparian owner to pursue property claims in a civil or administrative proceeding.

5. Locations of Endangered Species

There are important bodies of water throughout the State of Indiana that contain endangered species of fish or mussels. A person shall exercise special care to avoid a “take” of any mussels, any mussel shells, and any endangered species of fish, particularly in the locations listed below. “Take”, as defined in IC 14-22-34-5, “means to (1) harass, hunt, capture, or kill; or (2) attempt to harass, hunt, capture, or kill.” Please note this listing of sites is not exclusive, and endangered species and mussels are found in other locations.

Body of Water	County
Big Creek	Posey County
East Fork White River	Daviess, Pike, Dubois, Martin, and Lawrence Counties
Eel River	Cass, Miami, and Wabash Counties
Fish Creek	Dekalb and Steuben Counties
Elkhart River	Elkhart County
Hanna Creek	Union County
Kankakee River	Lake and Newton Counties
Maumee River	Allen County
Mill Creek	Wabash County
Ohio River	Vanderburgh, Warrick, Spencer, Harrison, Jefferson, Dearborn,

	Floyd, and Switzerland Counties
Patoka River	Dubois County
St. Mary's River	Allen County
St. Joseph River	Allen, Dekalb, Elkhart, and St. Joseph Counties
Salamonie River	Huntington County
Sugar Creek	Johnson, Shelby, and Hancock Counties
Wabash River	Carroll, Cass, Fountain, Gibson, Knox, Miami, Posey, Tippecanoe, Warren, and Wabash Counties
Tippecanoe River	Tippecanoe, White, Carroll, Pulaski, Starke, Fulton, Marshall, and Kosciusko Counties
White River (Main Stem)	Gibson, Pike and Knox Counties
Whitewater River (including West Fork of Whitewater River)	Dearborn and Franklin Counties

6. Disposal of Contaminants

Lead, mercury, and other metal contaminants are routinely found by prospectors in waterways throughout Indiana. When a contaminant is found in these waterways, it should be retained and taken to the nearest recycling center that accepts lead, mercury, and other metals. A list of these recycling centers can be found by contacting the county's Solid Waste Management District; contact information is available online at: <http://www.in.gov/recycle/5758.htm> or call the Indiana Department of Environmental Management's Office of Pollution Prevention and Technical Assistance at 1-800-988-7901.

7. Contact Information

Questions can be directed to the Department of Natural Resources, Division of Fish and Wildlife:

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